

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

SEP 17 2004

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

MICHAEL ALVARADO

No. 00-56770

Petitioner - Appellant,

D.C. No. CV-00-00326-VAP-E

v.

ORDER

R.Q. HICKMAN, Warden

Respondent - Appellee.

On Remand from the United States Supreme Court

Before: SCHROEDER, Chief Judge, CUDAHY[†], and MCKEOWN, Circuit Judges.

Our opinion, issued on December 18, 2002, reversed the judgment of the district court in this case, *Alvarado v Hickman*, 316 F.3d 841. A petition for writ of certiorari to the Supreme Court of the United States was filed on May 12, 2003, and granted as Case No. 02-1684, on September 30, 2003, *Yarborough v. Alvarado*, 124 S.Ct. 45. On June 1, 2004, the Supreme Court issued its opinion, *Yarborough v. Alvarado*, 124 S.Ct. 2140, reversing the judgment of this court. In

[†] The Honorable Richard D. Cudahy, Senior United States Circuit Judge for the United States Court of Appeals for the Seventh Circuit, sitting by designation.

accordance with the mandate of the Supreme Court, the judgment of the district court is hereby **AFFIRMED**.